FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.3986 OF 2004

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.R.S.Apte for petitioner.

CORAM : H.L GOKHALE, J

DATED : 26th June 2006

P.C. :

1. Heard Mr.Apte in support of this petition.

2. The respondent has filed a Suit regarding a structure which he claims to have constructed for storing grains and agricultural implements. It is his case that it is an old structure and it was sought to be demolished by the petitioner - Thane Municipal Corporation. He filed a Suit wherein an interim injunction was declined by an order dated 24th January 2003 passed by the Special Civil Judge, Senior Division, Thane. Against this order, he

filed an Appeal and in that injunction came to be granted by an order dated 21st November 2003 passed by the VIth Additional District Judge, Thane. That injunction has been running for last more than two and half years. This being the position, it will be better that the petitioner-Thane Municipal Corporation proceeds with the Suit on its merits. It will not be advisable to have the injunction vacated for the simple reason that it has been running for more than two and half years. We make it clear that we are not expressing anything on merits one way or the other and this order should not be construed as in any way a confirmation of the stand taken by the respondent. The petition is rejected only on this ground.

3. Since the interim order is not being interfered with, it will

be open to the petitioner - Thane Municipal Corporation to apply to the concerned trial Court for early hearing of the Suit in case the Thane Municipal Corporation is so keen that the structure should be demolished. We expect the learned Judge to consider such an application, when made, on its merits and if so persuaded, take up the Suit for early hearing.

4. We further make it clear that the trial Court will decide the Suit without being influenced by the decision of the Additional District Judge, Thane.

5. Petition rejected.

(H.L.GOKHALE, J.)